



Department of Justice

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FOR IMMEDIATE RELEASE
Tuesday, January 13, 2009
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RITE AID CORPORATION AND SUBSIDIARIES AGREE TO PAY \$5 MILLION IN CIVIL PENALTIES

Will Implement Nationwide Pseudoephedrine Tracking System to Resolve Violations of the Controlled Substances Act in Eight States

SACRAMENTO, Calif. - Acting United States Attorney Lawrence G. Brown and U.S. Drug Enforcement Administration Assistant Special Agent in Charge Gordon D. Taylor announced today that Rite Aid Corporation (Rite Aid) and nine of its subsidiaries in eight states have agreed to pay \$5 million in civil penalties to settle allegations of violations of the Controlled Substances Act (CSA).

In addition to the \$5 million penalty, Rite Aid and all of its subsidiaries agreed to a compliance plan with the U.S. Drug Enforcement Administration (DEA) to ensure compliance with all requirements of the CSA and applicable DEA regulations and to prevent diversion of controlled substances. The compliance plan also requires Rite Aid to implement a pseudoephedrine and ephedrine tracking system in each of its 4,915 stores that is designed to prevent the abuse of pseudoephedrine and ephedrine products, which are used to make methamphetamine.

The settlement was handled by Assistant U.S. Attorneys from each of the 11 judicial districts in which violations occurred. The attorney responsible for this matter in the Eastern District of California was Assistant U.S. Attorney Kendall J. Newman. The investigation in this matter was conducted by the DEA.

According to information contained in the agreement, the DEA conducted an investigation of 53 separate Rite Aid locations starting in 2004, including six pharmacies in the Eastern District of California. The investigation revealed a pattern of violations of the CSA, including:

- At pharmacies in Kentucky and New York, Rite Aid knowingly filled prescriptions for controlled substances that were not issued for a legitimate medical purpose pursuant to a valid physician-patient relationship;
- At five pharmacies in Maryland, four pharmacies in New York and 13 pharmacies in California, Rite Aid failed to notify the DEA in a timely manner of significant thefts and losses of controlled substances, thus permitting the diversion of controlled substances to continue and undermining DEA's ability to investigate such thefts and/or losses;
- At pharmacies in California, Pennsylvania and Maryland, Rite Aid either failed to maintain or failed to furnish to the DEA upon request records that are required to be kept under the CSA for two years;
- At all 53 pharmacies in all eight states, Rite Aid failed to properly execute DEA forms used to ensure that the amount of Schedule II drugs ordered by Rite Aid were actually received.

Additionally, the DEA conducted accountability audits of controlled substances at 25 of the

53 stores investigated to determine whether Rite Aid could properly account for Schedule II and III controlled substances purchased and dispensed. The results of the accountability audits revealed significant shortages or surpluses of the most highly abused drugs, including oxycodone and hydrocodone products, reflecting a pattern of noncompliance with the requirements of the CSA and federal regulations that lead to the diversion of controlled substances in and around the communities of the Rite Aid pharmacies investigated.

As part of the compliance plan agreed to as part of the settlement, Rite Aid will audit each pharmacy to ensure that all of its controlled substances are maintained securely and that each pharmacy is compliant with the requirements of the CSA. Additionally, Rite Aid will physically count all Schedule II controlled substances quarterly and physically count hydrocodone and alprazolam products yearly. Currently, the CSA only requires registrants like Rite Aid to physically count Schedule II controlled substances biennially and estimate Schedule III products biennially.

Rite Aid has also agreed to design and implement an electronic system to document and link all sales transactions involving nonprescription products containing pseudoephedrine and ephedrine at each of the 4,915 Rite Aid locations in the country. The new system will be designed to prevent individuals from obtaining illegal amounts of these products by visiting different pharmacy locations, sometimes referred to as “smurfing.” In the event an individual attempts to make a purchase that would exceed either the daily or 30-day limit for purchase of nonprescription products containing pseudoephedrine and ephedrine, the new system will alert the employee to halt the transaction and a record of the attempted purchase will be made and reported to the DEA.

“Today’s settlement will assist efforts to eliminate the source of drugs illegally obtained and used to manufacture methamphetamine,” said Acting United States Attorney Brown. “Rite Aid should be commended for taking steps to address its controlled substance security deficiencies on a national level. As part of this settlement, Rite Aid has agreed to institute its compliance program, not just in the Eastern District of California, but throughout the country. This important step will remove another avenue by which drug dealers access controlled substances used to make methamphetamine that ends up in our community.”

DEA Assistant Special Agent in Charge Taylor stated, “Pharmacies have been entrusted to distribute controlled substances and that comes with a responsibility to prevent the illegal diversion of these drugs. This settlement holds the gatekeepers accountable for the pharmaceuticals they dispense.” Taylor added, “This nationwide database will assist law enforcement in reducing the illegal production of methamphetamine in our communities.”

The CSA is the primary federal law regulating the flow of controlled substances into the marketplace for medical purposes. Strict compliance with the CSA is required in order to prevent the illegal importation, manufacture, distribution, possession and improper use of controlled substances. The Act authorizes the imposition of a civil penalty of up to \$10,000 for each record keeping or reporting violation and a penalty of up to \$25,000 for each violation involving legally deficient prescriptions.

The settlement agreement is neither an admission of liability by Rite Aid nor a concession by the United States that its claims are not well founded.

Rite Aid is headquartered in Camp Hill, Pa., and operates 4,915 stores in 31 states. Violations resolved by the settlement occurred in eight states and 11 judicial districts, including the Middle District of Pennsylvania; Eastern, Northern, and Western Districts of New York; District of Maryland, Eastern District of Kentucky; Eastern and Southern Districts of California; Eastern District of Virginia; District of New Jersey; and the Eastern District of Michigan.